

**JUDSON H. HILL, ESQ.**

October 9, 2019

**BY ECFS**

Marlene Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Sage Telecom Communications, LLC and Telscape Communications, Inc. d/b/a TruConnect Notice of Oral Ex Parte Presentation; WC Docket No.11-42, 09-197 and 10-90.

Dear Ms. Dortch:

On October 7, 2019 I, counsel to Telscape Communications, Inc. d/b/a TruConnect and Sage Telecom Communications, LLC (collectively TruConnect) met with Commissioner Michael O’Rielly, to discuss the pending Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study filed by CTIA, the National Consumer Law Center, National Hispanic Media Coalition, OCA – The Asian Pacific American Advocates and the United Church of Christ, OC, Inc.<sup>1</sup> and the Commission’s Promoting Telehealth for Low-Income Consumers Notice of Proposed Rule Making.<sup>2</sup>

During the meeting I discussed TruConnect’s view that the FCC’s authority to establish and enforce broadband minimum service standards under the 2016 Lifeline Order<sup>3</sup> had been eliminated as a result of the United States Court of Appeals for the DC Circuit decision in *Mozilla Corporation v. Federal Communications Commission*, October 1, 2019. I noted the Court ruled that broadband’s eligibility for Lifeline subsidies turns on its common-carrier status and that the 2018 Order’s reclassification of broadband facially disqualifies broadband from inclusion in the Lifeline Program. *Id.*, at 111-112. Without authority to include broadband in the Lifeline program, then efforts to establish and enforce minimum service standards for mobile broadband in the program are arbitrary and capricious.

TruConnect agrees with the Court that the Commission could search for new authority to include broadband as part of the Lifeline program under Title I of the Communications Act on remand. However, I cautioned the Commissioner that such an approach, particularly when coupled with minimum service standards, could set a precedent for regulating the price, terms and conditions of

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<sup>1</sup> See Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study, WC Docket No. 11-42 et al. (filed June 27, 2019) (“Joint Petition”).

<sup>2</sup> See Resolutions Passed by The Board of Directors at The 2019 Summer Policy Summit Of The National Association of Regulatory Utility Commissioners (July 24, 2019), specifically TC-1 “*Resolution on the Lifeline National Verifier Launch and Minimum Service Standards*” (“NARUC Resolution”) ¶ 17.

<sup>3</sup> See *In re Lifeline & Link UP Reform and Modernization*, 31 FCC Rcd. 3962, 3964 (2016) (“*Lifeline Order*”)

broadband under Title I of the Communications Act.

I emphasized that the record before the Commission clearly demonstrates the substantial and broad support to pause the announced increase in the mobile broadband minimum service standards and also to keep full Lifeline support for the standalone voice and voice centric bundles, until after the Commission completes and submits their scheduled findings of the impact of changes in data levels, access to and affordability of Lifeline services for low-income consumers in their forthcoming *State of the Lifeline Marketplace Report* due June 2021. I also emphasized that the Joint Petition drew no opposition. In fact, the Joint Petition is supported by both the National Association of Regulatory Utility Commissioners (“NARUC”), which represents utility commissioners in every state and territory, unanimously passed a resolution to support the relief requested as well as several veterans groups concerned about the unfortunate increasing veteran suicides and low income veterans’ real need for an affordable true lifeline device.

To that end, and in light of the U.S. Circuit Court of Appeals for the District of Columbia’s remand, the best course of action is for the free market to dictate the minimum broadband services for the Lifeline Program. TruConnect – a Lifeline ETC, believes that competition among ETCs for Lifeline subscribers will not only force broadband to be included as a basic Lifeline service but it will also be provided at speeds and data limits comparable to the current government mandated minimum standards. In fact, TruConnect already offers its customers LTE service, although not required to do so, and they were among the first ETCs to offer broadband to their customers before the 2016 Lifeline Order mandates.

I further shared TruConnect’s support for, and commented on the importance of, both the Commission’s Rural Broadband and proposed Telehealth Pilot initiatives. I reinforced how critical telecommunications connectivity is to America’s economic development and job creation, not to mention the importance of calling a healthcare provider for care or calling emergency first responders. The access to communications service and devices is equally important to low-income Americans; many elderly and lower income veterans, who need a true lifeline.

I especially emphasized that the success of the Commission’s rural broadband and the telehealth pilot could very well be jeopardized by the projected severe decline in Lifeline participation caused by minimum service standards that force Lifeline program participants to purchase large and expensive broadband packages or drop off the program. During the meeting I noted that a survey of carriers reveals that monthly data costs for the agency’s proposed minimum service standard increase to 8.75GB of data on December 2019 may exceed \$30 per month.<sup>4 and 5</sup> This will force an immediate price increase for every subscriber. Lifeline will then be unaffordable for subscribers and not financially sustainable for Lifeline ETCs, consequently, collapsing the program. Since nothing operates in a vacuum, the demise of Lifeline will rapidly be felt by the states with higher unemployment rates and even higher hospital emergency room visits, all at taxpayer expense.

For the reasons stated, I renewed TruConnect’s request to immediately pause the implementation of minimum service standards because of the uncertainty created in the Court Order or otherwise grant the Joint Petition to avoid the collapse of lifeline services for lower income

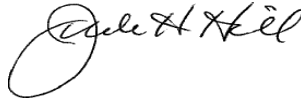
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<sup>4</sup> See Wireline Competition Bureau Announces Updated Lifeline Minimum Service Standards and Indexed Budget Amount, DA 19-704 (July 25, 2019).

Veterans elderly and other eligible subscribers.

Pursuant to section 1.1206(b) of the Commission's rules, this letter is being filed electronically.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Judson H. Hill". The signature is fluid and cursive, with the first name "Judson" being the most prominent part.

Judson H. Hill, Esq.

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cc:

Commissioner Michael O'Rielly

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<sup>5</sup> See National Lifeline Association Notice of Oral *Ex Parte* Presentation, WC Docket Nos. 17-287, 11-42, and 09-197 (dated April 4, 2019) (NaLA Ex Parte) ¶ 9; see also NARUC Resolution ¶ 17.